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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

CHARLES WILLIAM BARNABY

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The transcript of the oral judgement delivered by His Honour,  
Judge T. B. Davis, sitting at Fort Good Hope, in the Northwest  
Territories, on Wednesday, September 5th, A.D., 1984.

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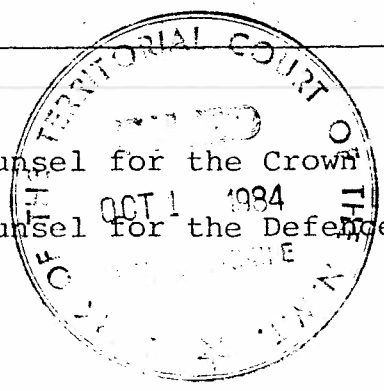
APPEARANCES:

MR. D. GATES:

Counsel for the Crown

MR. A. WRIGHT:

Counsel for the Defence



1 THE COURT: Mr. Charles William Barnaby has entered a  
2 plea of guilty to a charge under Section 236 of the Criminal  
3 Code admitting that he was driving an All-Terrain vehicle on  
4 September 1st, 1984, in the evening and when he was observed  
5 by the R.C.M.P., because he swerved and had not full control  
6 of the vehicle at that time, that he had passengers on it with  
7 him. Readings on the breathalyzer confirmed that the accused  
8 at 240 and 230 milligrams percent.

9 Through Defence Counsel, Mr. Barnaby has indicated that he  
10 realizes that this community is in favor of remaining dry and  
11 that his actions, even though he is Chief of the local band,  
12 in driving a motor vehicle or any vehicle or consuming alcohol  
13 in the community are not to be sanctioned and he has given a  
14 promise to the Court that he will not in the future drive any  
15 motor vehicle if he were to consume any alcohol.

16 On that basis, I'm not going to cancel the driving privileges  
17 of Mr. Barnaby because he had been supplied with an All-Terrain  
18 vehicle by the band since he has had a hip problem and I'm not  
19 going to interfere with his ability to use the vehicle now that  
20 he has made that undertaking to the Court and realized that he  
21 must set an example in the community rather than violate the  
22 law as pointed out by Crown Counsel.

23 I at this time probably should hear more of Mr. Barnaby's  
24 ability to pay a fine, since I intend to impose a fine. Is  
25 there something I should know, Mr. Wright?

26 MR. WRIGHT: I think Mr. Barnaby is in a position to  
27 pay a fine, but he will need some time to pay it.

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THE COURT: He has regular employment, does he?  
MR. WRIGHT: On a regular basis. Mr. Barnaby also indicates he can pay \$150 a month towards it.  
THE COURT: I'm going to impose then a fine in the lower range, even though submissions were such from Crown Counsel and very reasonable that a fine should be over a thousand dollars. In this instance, I take into account the fact that I believe Mr. Barnaby does not intend in the future to set this kind of example to the community and I'm therefore going to impose a lesser fine. In this instance I'm going to impose a fine in the amount of \$600 or in default thereof, 20 days in jail.

I'm going to allow the accused five months in which to pay the fine. Mr. Barnaby, I expect that you will make efforts on a monthly basis to pay the fine through the Clerk of the Court, and the Clerk will advise you how the arrangements will be made.

(AT WHICH TIME THIS PROCEEDING WAS CONCLUDED)

Certified a correct transcript,

Brenda MacDougall  
Brenda MacDougall  
Court Reporter